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## Appealing A Dog Disposal Order In Connecticut

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By **Dayna M. Chucta**

If your dog bites an individual, you may receive a dog disposal order from your local animal control officer. While receiving a dog disposal order can be an emotional and overwhelming experience there is comfort in knowing that you may seek legal recourse in the form of an appeal to the Department of Agriculture.

Under Connecticut General Statute § 22-358, also known as the Dog Bite Statute, an animal control officer has the discretion to make any order concerning the restraint or disposal of any biting dog. The statute also provides that any person aggrieved by an order of any animal control officer may request a hearing before the Commissioner of the Department of Agriculture within fourteen days of the issuance of such order. Any order issued, whether it be a restraint order or a quarantine order, remains effective during any appeal of such order to the Commissioner. Under the statute, the dog must also be quarantined in an approved facility for fourteen days for observation for rabies. The animal control officer has the discretion to determine whether the quarantine shall be continued or removed, i.e. whether the dog may be returned to the owner after the 14 days or continue to be held at the facility pending an appeal to the Commissioner.

The order issued by the animal control officer will assess the severity of the bite on the basis of the Ian Dunbar Bite Assessment Scale which scores bites from 1-6. A level 1 bite would include a snap and miss with no contact made by the dog to an individual or another dog. A level 2 bite indicates a snap and contact made with some bruising. A level 3 bite includes one to three puncture wounds from a single bite. Level 4 includes hanging on and shaking, deep cuts, and bruising. Level 5 indicates multiple level 4 bites with mutilation. Finally, a level 6 bite includes injury and mutilation that results in death. The dog bite scale may be used at the hearing to contest or affirm the severity of the resulting bite.

After an appeal is submitted, the Commissioner appoints a hearing officer to conduct a hearing and render a proposed final decision. When representing the animal owner, the goal in the hearing is to have the disposal order revoked, or at least modified to a restraining order, which would likely entail that the dog be ordered to remain on the owner's premises away from public contact. The administrative hearing proceeds as a full evidentiary hearing, conducted before the appointed hearing officer. The attorney for the municipality will participate in the hearing and defend the animal control officer's order. The appealing owner will present evidence regarding the dog's history and temperament, as well as any witnesses and evidence regarding the incident. Prior to the hearing, the owner may retain an animal behavioral expert to perform an evaluation of the dog to test the dog's aggression and propensity to violent mannerisms.

If applicable, the owner can raise as a defense that the dog was provoked to attack. Connecticut General Statutes § 22-357, the "*provocation*" statute, provides that if any dog does damage to the body or property of another person, then the owner shall be liable for the amount of such damage, except when such damage is occasioned when the individual was committing a trespass or other tort, or was teasing, tormenting, or abusing such dog. If the dog was provoked, then witness testimony is imperative to describe the provocation at the hearing and prove the defense.

After conducting the full evidentiary hearing, the hearing officer makes findings of fact and conclusions of law and issues a proposed final decision to the Commissioner. The proposed final decision includes the hearing officer's recommendations on how the matter should be resolved. In almost all cases, the Commissioner is the final decisionmaker and will either accept, modify, or reject the animal control officer's order based on the hearing officer's recommendations. If the owner is not satisfied with the Commissioner's decision, then the owner has a short time period to file an appeal of that decision with the Connecticut Superior Court.

At any time during either level of appeal, the parties may be open to discussing settlement options. If agreeable to the parties, settlement options may include a qualified restraining order that ensures the enclosure of the dog on the owner's property and prevents exposure to the public. Another possible settlement option includes relocating the dog out of state, potentially with the owner or with an animal sanctuary.

We know that this process can be extremely emotional and stressful for pet owners. In order to make sure that your rights are protected throughout the process and achieve the best result, we recommend retaining one of our experienced attorneys to advise you as soon as you receive a disposal order.